

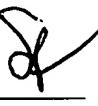


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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/751,835  | 12/29/2000  | Atul N. Hatakar      | 10559/355001/P10032 | 9274             |
| 20985   | 7590        | 06/08/2004           | EXAMINER            |                  |
| FISH & RICHARDSON, PC<br>12390 EL CAMINO REAL<br>SAN DIEGO, CA 92130-2081 |             |                      | LE, HIEU C          |                  |
|   |             | ART UNIT             | PAPER NUMBER        |                  |
|   |             | 2142                 | 7                   |                  |
| DATE MAILED: 06/08/2004   |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |  |
|------------------------------|------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b>  |
|                              | 09/751,835             | HATALKAR, ATUL N.  |
| <b>Examiner</b>              | <b>Art Unit</b>        |  |
| Hieu c. Le                   | 2142                   |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 3-11-04.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-14 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2142

1. Applicant's election without traverse of group I (1-14) in Paper No. 16 is acknowledged.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-14, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recites "the medium including an alert management message therein and comprising" lines 2-3. The specification discloses a system, wherein a head end side 43 and client side 38 communicate via network 36 ( page 3, line 24- p. 4, line 1). The message may also include a field indicating wherether the intended recipient is a single client or a group of clients ( p. 5, lines 17-21), i.e. the specification discloses that the alert message comprise, many data field parameters. There is no disclosure of the medium coupling the head end to the clients (the network) comprises many data field messages as claimed nor how to perform it.

Claim 4 recites "the second data field comprises a Boolean flag", lines 1-2. The specification discloses that the target-type field may serve as a Boolean flag (p. 5, lines 19-22). The new status parameter which is a Boolean flag (p. 8, lines 3-5). There is no recitation of " an alert type message " (second data field) comprises a Boolean flag nor how to perform it.

Claim 5 recites "a data signal embodied in a carrier wave" line 1. The specification an alert message that is sent as a tream of packets comprises of different data fields (p. 10, lines 12-14). There is no disclosure of data signal embodied in a carrier wave comprise different data fields as claimed nor how to perform it.

***Claim Rejections - 35 U.S.C. § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites " transmission medium." in line 1, " the medium" in line 2. It is not clear whether " transmission medium " in line 1 is the same or different from " the medium" recited in line 2. There is insufficient antecedent basis for this limitation in the claim.

As to claims 2-14, refer to claim 1 rejection.

7. Claim 8 is objected to because it depends from itself.

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1-8 are rejected under 35 U.S.C. 101 because the claims are drawn to a signal per se not tangibly embodied on a computer readable medium.

***Claim Rejections - 35 U.S.C. § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

**A person shall be entitled to a patent unless -**

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351 (a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-14 are rejected under 35 U.S.C. 102(e) as anticipated by Payne ( US Patent 6,021,433 ).

As to claim 1, [ as best understood by Examiner ] Payne discloses a broadcast transmission medium coupling a head end to a plurality of clients [central broadcast server (head end) is coupled to plurality of computers via a network (medium) (col. 3, lines 49-55, col. 9; lines 15-23)] , the medium including an alert management message therein and comprising:

a first data field comprising an identification of a target set of clients [ the message can be transmitted to everyone, a subset of users or to one user (col. 2, line 67-col. 3, line 2), the message includes a customer (target) identifier that targets the

message to all users or to target the message to specific user (col. 12, lines 53-67), figs. 5-1, 5-2, and 6)].

a second data field comprising an alert type message (Fig. 6, alert message); and

a third data field comprising a status message [ Fig. 5-1, private data block flag, indicates whether the data block will be passed on the Alert panel or to be processed internally by the communications server ( status of message)].

As to claim 2, Payne further discloses comprising a fourth data field comprising a message identification (Fig. 8).

As to claim 3, Payne further discloses wherein the target set of clients consists of a single client ( col. 2, line 67-col. 3, line 2, col. 12, lines 53-67 & col. 13, lines 56-59).

As to claim 4, Payne further discloses the second data field comprises a Boolean flag ( Fig. 6, Alert type is a 1 byte string of bits (Boolean flag)].

As to claim 5, refer to claim 1 rejection. Payne further discloses that the alert message is transmitted as FM subcarrier (data signal embodied) in a carrier wave (col. 9, lines 11-14). The transmission is via paging vertical blanking Interval VIB of a television signal (one way communication) (col. 9, lines 5-8).

As to claim 6, refer to claim 2 rejection.

As to claim 7, refer to claim 3 rejection.

As to claim 8, refer to claim 4 rejection.

As to claim 9, Payne discloses a method of sending an alert management message to a plurality of recipients on a broadcast channel comprising:

generating a first data field that identifies at least one target recipient from among the plurality of recipients [ the message can be transmitted to everyone, a subset of users or to one user (col. 2, line 67-col. 3, line 2), the message includes a customer (target) identifier that targets the message to all users or to target the message to specific user (col. 12, lines 53-67), figs. 5-1, 5-2, and 6)].

generating a second data field that identifies the type of alert management message (Fig. 6, alert message); and

transmitting the data fields to the recipients [central broadcast server (head end) transmits the message that includes the data fields to plurality of user computer (col. 3, lines 50-56)].

As to claim 10, Payne further discloses comprising generating a third data field that uniquely identifies the alert management message (Fig. 8, message ID).

As to claim 11, Payne further discloses the alert management message including a payload message [ message data (payload) (col. 13, lines 24-25)], the method further comprising:

generating the payload message, the payload message comprised of at least one byte [ Figs. 8-9, the packets payload (message data) includes at least one byte ];

transmitting the number of bytes in the payload message; and transmitting the payload message [ the packets in message are transmitted, a single packet data block includes a packet header, data block header, and data block content (pay load) (col. 13, lines 35-40, i. e, the packet is transmitted and because a packet consists of a header and a pay load (block content), so when transmitting a packet, the payload is

transmitted because it is part of the packet, the pay load (block content) as shown in Figs. 8-9 consists of bytes, so when transmitting a packet, it is payload and the bytes in the payload are transmitted with it.

As to claim 12, refer to claim 9 rejection. Payne further discloses a computer executable instructions (software) (col. 7, lines 4-5).

As to claim 13, refer to claim 10 rejection.

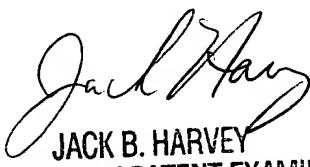
As to claim 14, refer to claim 11 rejection.

9 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu Le whose telephone number is (703) 306-3101. The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey, can be reached on (703) 305-9705. The fax phone number for this Group is (703) 308-9051.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Hieu Le



JACK B. HARVEY  
SUPERVISORY PATENT EXAMINER